IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8304 OF 2004

Sunil Narayan Sawant. .. Petitioner

Vs.

The Paper Products Ltd. & Ors. .. Respondents

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Shri Jaiprakash Sawant for the petitioner.

Shri J.P.Cama i/b RMG Law & Associates for the respondents.

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CORAM : R.M.S.KHANDEPARKAR, J

DATED : 21st OCTOBER, 2004.

P.C.

1. Heard. The petitioner challenges the concurrent findings arrived at by the Courts below in relation to the absence of unfair labour practice on the part of the respondent No.1 consequent to the alleged termination of the service of the petitioner. The Labour Court had dismissed the complaint mainly on the ground that the petitioner was not a workman but merely a "Trainee Operator", and in any case, his training period had come to an end on 19th May, 1998 consequent to the refusal on the part of the petitioner to accept the confirmation letter dated

10th April, 1998 issued to him by the respondent No.1. The fact that the confirmation letter offered by the respondent No.1 to the petitioner was refused by the petitioner is not in dispute. Obviously, even assuming that the petitioner was a workman on probation, once the confirmation having been refused to be accepted by the petitioner himself, the relationship of the employee-employer had come to an end between the petitioner and the respondent no.1, and therefore, there was no scope for contending any unfair labour practice having been adopted by the respondent No.1 for refusal to continue the petitioner in the service of the respondent No.1. It was sought to be contended that the said refusal was under wrong impression and that the refusal was accompanied by the request for certain changes in the terms of service conditions and further that there was no communication in the reply by the petitioner to such request. Once the relationship of employee-employer between the petitioner and the respondent No.1 had come to an end, the respondent No.1 was not duty bound either to accept the request of the petitioner or for that purpose, even to have further communication with the petitioner as regards the alleged request by the petitioner. It was entirely in the discretion of the respondent No.1 to accept such request or not and mere

mistake on the part of the petitioner in refusing to accept the confirmation cannot give any right to the petitioner to insist for continuation in service of the respondent No.1. Being so, even on this ground, it cannot be said that there was any act on the part of the respondent No.1 which can be said to be unfair labour practice viz-a-viz the petitioner.

2. In the facts and circumstances of the case, and more particularly from the fact revealed that the employee-employer relationship between the petitioner and the respondent No.1 had come to an end from 19th May, 1998 consequent to the refusal on the part of petitioner to accept the request of the respondent No.1, there was no case for holding that the respondent No.1 had adopted any unfair labour practice in refusing to continue the petitioner in the service after May, 1998. Viewed from this angle, there is no case for interference in the impugned order in exercise of the writ jurisdiction under Article 227 of the Constitution of India, and therefore, the petition is rejected with no order as to costs.